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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,489	07/30/2003	David W. Plank	6323US	9693
30173	7590	11/02/2004		
GENERAL MILLS, INC. P.O. BOX 1113 MINNEAPOLIS, MN 55440				
EXAMINER DONOVAN, MAUREEN C				
ART UNIT		PAPER NUMBER		
1761				
DATE MAILED: 11/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,489

Applicant(s)

PLANK ET AL.

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Examiner

Maureen C Donovan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 7,9 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "partially" in claims 7,9 and 15 is a relative term which renders the claim indefinite. The term "partially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The degree of baking or exactly how the food product is baked, to what temperature, how long, etc., is rendered indefinite by the use of this term.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1, 2, 4-6, 8, 10-14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey, GB 2379152 A.

Honey discloses a food product treatment, comprising; a cyclodextrin, and a carrier, wherein said composition is supplied in a form of a spray, wherein said food product is a grain or vegetable based food product (see Page 1, sections 0005, 0007, 0011 and Page 2, section 0016 and 0018). Honey discloses that the food product is baked goods (see page 1, section 0005). Honey discloses creating a food product or food intermediate from a grain or vegetable base or derivative; applying a complex containing a cyclodextrin and a carrier; and subjecting said food product or food intermediate to heating of at least 100C (see page 2, section 0018), wherein the step of applying the complex is accomplished by spraying (see page 1, section 0007). Honey discloses a food product or food intermediate having a coating including a cyclodextrin, wherein said food product is a grain or vegetable based food product and the food product is a baked good and wherein said food product or food intermediate is provided in a frozen state (see page 2, section 0016). Honey discloses that the coating is topically applied (see page 2, section 0015).

With regard to the claimed recitation that the food product treatment composition or spray coating containing cyclodextrin be "for reducing acrylamide levels in food products" or that the method is for "reducing acrylamide levels in heat treated food products": The intended use of the spray coating or purpose of the method does not add

positive functional limitations on the claims. The coating and method of coating with a cyclodextrin containing composition as disclosed by Honey would inherently act in a manner to reduce the acrylamide levels in the food products even though that is not the explicit purpose for the coating as disclosed by Honey.

Although Honey does not explicitly state that the cyclodextrin in the food product treatment is present with a carrier, and that that carrier is water, Honey does disclose that the food product treatment may be a liquid in solution or saturated form (see page 1, section 0007). One of ordinary skill in the food art, when producing a liquid solution, as disclosed by Honey would have found it obvious to use water to make the solution. Honey also discloses that the solution can be at 70% or saturated, one of ordinary skill in the food art would have found it obvious to use water to dilute the saturated solution to a 70% solution.

2. Claims 2 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey as applied to claims 1,2,4-6,8,10-14,16 and 17 above and further in view of Smith, US patent number 5,128,161.

Honey discloses all the features of the instantly claimed invention, including a baked goods glaze coating that contains cyclodextrin and can be utilized by spraying the glaze onto baked goods in a mechanized manner (see Page 1, sections 005, 007, 0011 and Page 2, section 0016 and 0018). Honey does not teach packaging the spray glaze.

Smith discloses a spray glaze coating for baked goods that is packaged in an

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aerosol container (see Column 1, lines 57-62 and Column 2, lines 27-37 and Column 4, lines 56-68 and Column 5, lines 1-12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to put the glaze of Honey into the spray container as disclosed by Smith since both are directed to spray glaze coatings for baked goods, since the container of Smith provides an easy way to apply glaze to the baked goods through spraying (see Column 2, lines 35-36) and since Honey teaches the glaze being sprayed in a mechanized manner but does not specify an exact mechanized manner to use; therefore one of ordinary skill in the art, looking to the existing art for mechanized manners of spraying glaze would rely on the Smith reference since an aerosol container as taught by Smith is a mechanized means for spraying. With regards to Claims 19-21, the intended use of the spray coating (i.e. for consumer, commercial or food service) appears to be merely functional and does not add a positive limitation on the spray coating and therefore while Honey as modified by Smith does not expressly say that the packaged spray coating is for consumer, commercial or food service use, it is inherent that the packaged spray coating could be used or applied as such, hence it is interpreted that the spray coating as disclosed by Honey as modified by Smith meets the structural limitations of claims 19-21.

3. Claims 7,9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey as applied to claims 1,2,4-6,8,10-14,16 and 17 above and further in view of Baking 911 online publication.

Honey discloses all the features of the instantly claimed invention except for partially baking the baked goods.

Baking 911 teaches partially baking baked goods and also brushing the baked goods with a glaze after pre-heating the baked good and then returned to the oven for complete baking (see page 3, Basics #8 section, second and third paragraphs). It would have been obvious to one of ordinary skill in the art at the time of the invention to partially bake the baked goods of Honey as taught by Baking 911 and to glaze the baked goods with the glaze as disclosed by Honey after partially baking them as taught by Baking 911 since this would prevent the baked goods from becoming soggy when fully baked and will waterproof the baked goods (see page 3, Basics #8 section, second and third paragraphs).

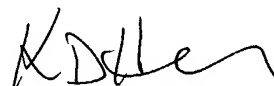
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen C Donovan whose telephone number is (571) 272-2739. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCD



**KEITH HENDRICKS**  
**PRIMARY EXAMINER**